

IT 95-87
Tax Type: INCOME TAX
Issue: Federal Change (Individual)

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
CHICAGO, ILLINOIS

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DEPARTMENT OF REVENUE      )
OF THE STATE OF ILLINOIS  )
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                           )   No.
                           )   SSN:
XXXXXX                     )
                           )   Daniel D. Mangiamele
                           )   Administrative Law Judge
Taxpayers                  )
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RECOMMENDATION FOR DISPOSITION

SYNOPSIS: This matter comes on for hearing pursuant to the taxpayer's timely protest of Notice of Deficiency issued by the Department for the taxable year ending 1990. The deficiency in the amount of \$2,656.00 results from information obtained from Taxpayer's Federal Income Tax Return. At issue is the question of whether the Taxpayer offered sufficient evidence to overcome the department prima facie case. Following the submission of all evidence and a review of the record, it is recommended that this matter be resolved in favor of the Department.

FINDINGS OF FACTS:

1. The Department's prima facie case, inclusive of all jurisdictional elements, was established by the admission into evidence of the Notice of Deficiency showing a total liability due and owing in the amount of \$2,656.00. Dept. Ex. #1.

2. Taxpayer offered no Testimonial or Documentary evidence.

CONCLUSIONS OF LAW: On examination of the record established, this taxpayer has failed to demonstrate by the presentation of testimony or through exhibits or argument, evidence sufficient to overcome the

Department's prima facie case of tax liability under the deficiency in question. Accordingly, by such failure, and under the reasoning given below, the determination by the Department that XXXXX, is subject to the deficiency in the amount of \$2,656.00 plus penalties and interest if any for the taxable year 1990.

Once the Notice of Deficiency was admitted into evidence, the amount of tax and penalty established was deemed prima facie true and correct. The Department having established its case, the burden shifted to the taxpayer to overcome it by producing competent evidence as identified with taxpayer's books and records. *Masini v. Department of Revenue* (1978) 60 Ill. App. 3d 11, 376 N.E. 2d 324. In the instant case, no documentary evidence or testimony was proffered on behalf of the taxpayer. Thus, the taxpayer failed to overcome the Department's prima facie case.

Based on the above, I recommend that the Notice of Deficiency plus any statutory penalties and interest to date be affirmed.

Daniel D. Mangiamele
Administrative Law Judge